

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MALCOLM G. ELLIOTT and U.S. POSTAL SERVICE,  
IDLEWILD STATION, Charlotte, NC

*Docket No. 03-2036; Submitted on the Record;  
Issued November 20, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

Appellant, a 42-year-old EAS-16 supervisor, filed a notice of occupational disease claim on July 12, 2002 alleging that he became aware of stress on July 7, 2002. He stated that he applied for two EAS-16 positions and that the positions were awarded to two city carriers. Appellant did not submit any other evidence with his claim.

By decision dated September 26, 2002, the Office of Workers' Compensation Programs denied appellant's claim stating:

"You not being promoted is not in the performance of duty. Frustration over not being able to secure a promotion is not in the performance of duty. It is an administrative action and the record does not indicate that your agency has erred."

On October 15, 2002 appellant indicated, with a checkmark, that he would like an examination of the written record. He submitted additional evidence including a completed claim for compensation, Form CA-7, dated July 12, 2002 and requesting a schedule ward. Appellant also submitted reports from Dr. James E. Hall, a psychologist, diagnosing depression.

By decision dated April 1, 2003, the hearing representative noted that the Office failed to undertake development in this case and simply issued a denial decision on the basis that appellant failed to implicate a compensable factor of employment. The hearing representative noted that appellant had not submitted any additional factual evidence addressing the alleged employment factors and concluded that the only issue for review was whether the denial of appellant's promotion was a compensable employment factor. The hearing representative affirmed the Office's September 26, 2002 decision.

The Board finds that appellant has failed to meet his burden of proof in establishing that he developed an emotional condition due to factors of his federal employment.

To establish appellant's claim that, he has sustained an emotional condition in the performance of duty, appellant must submit the following: (1) medical evidence establishing that he has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>1</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>2</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>3</sup>

Appellant submitted a claim form dated July 12, 2002 alleging that he developed stress as he applied for two EAS-16 positions at other stations, on the face of his claim, requesting a transfer from his position of EAS-16 supervisor at the Idlewild station to another similar grade position at a different location and as the employing establishment granted these positions to two city carriers rather than appellant.

The Board has held that the denial by an employing establishment or a request for a different job, promotion or transfer is an administrative decision, which does not directly involve an employee's ability to perform work duties, but rather constitutes an employee's desire to work in a different position.<sup>4</sup> As a general rule, an employee's emotional reaction to an administrative or personnel matter is not covered under the Federal Employees' Compensation Act. But error or abuse by the employing establishment, in what would otherwise be an administrative or personnel matter or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage. In determining whether the

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>2</sup> *Id.*

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

<sup>4</sup> *Ernest J. Malagrida*, 51 ECAB 287, 289 (2000).

employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.<sup>5</sup>

In this case, appellant has not specifically alleged that the employing establishment acted abusively in a personnel matter. Appellant has submitted no evidence regarding whether the employing establishment's determination to promote other employees, rather than transferring or promoting him, violate the employing establishment policies or was otherwise unreasonable. Without substantiated evidence of error or abuse on the part of the employing establishment in accepting other candidates for the positions that appellant requested, appellant has failed to meet his burden of proof and the Office properly denied his claim.

The record does not contain any other factual evidence or allegations by appellant regarding the causal relationship of his diagnosed condition and his federal employment. As appellant has failed to substantiate a compensable factor of employment, it is not necessary to address the medical evidence<sup>6</sup> and the Office properly denied his claim.

The April 1, 2003 and September 26, 2002 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
November 20, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>5</sup> *Martha L. Watson*, 46 ECAB 407 (1995).

<sup>6</sup> *Malagrida*, *supra* note 4 at 291.